



ENVIRONMENTAL AFFAIRS BOARD MINUTES

August 19th, 2020
Special Meeting
Virtual Meeting (Zoom)

Voting Members: Laura Marie Davis (chair), Robin Emmons (vice chair), Chi Vo (secretary), Donald Addu, Casey Collins, Matthew Herman, Jennifer Hill, Wafa Khalil, Matthew Kopac, Tyjuanna LaBennett, Juilee Malavade, Roberto Valle Kinloch

Excused Absence: Jessie Birckhead

Ex Officio Members/Staff: Stacey Poston, Paul Cameron, Fred Lamar, Tobin Freid

I. Call to Order at 7:03 pm

II. New Business & Continuing Business

a. Topic: City of Durham/Duke Energy Franchise and Memorandum of Understanding

City Staff:

Stacey Poston: General Services

Jina Propst: Director of General Services

Fred Lamar: City Attorney's Office

Duke Energy:

Indira Everett: District Manager

Christy Daniel: Director of Enterprise and Strategy

- Franchise Agreement
 - The city's current Franchise Agreement is set to expire in October 2020.
 - The city and Duke Energy have created a new Franchise Agreement that outlines the foundation for the city and Duke Energy to coordinate activities and facilities.
 - Duke Energy facilities is in the public right of way.
- Memorandum of Understanding
 - This document outlines the relationship of the city and Duke Energy regarding various initiatives.
- Process

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Staff Contact: Paul Cameron, Sustainability and Energy Analyst
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- The city staff and Duke Energy representatives have been meeting since February to work on the documents.
- They were divided into subcommittees that covered an array of topics such as utilities, relocation, emergency repairs, clean energy, billing, etc.
- The city and Duke Energy have three documents that have been created.

b. EAB Board Questions & Answers

- J. Hill: Do the documents only concern city residents or city operations?
 - MOU:
 - Both – The document is intended to address both the city's (customer) desire to implement clean energy initiatives and serve the residents.
 - The attachment to the MOU outlines further cooperation with the city.
 - GSD (consultant for the city's Carbon Neutrality Action Plan) is also consulting with this process and may evaluate it over time.
 - Franchise Agreement: Intended for the distribution system in Durham, thus it affects all residents. The terms focus on how the utility provider (Duke Energy) and the city (Durham) partner with each other.
- C. Collins: What are other boards or entities that are being considered for feedback?
 - EAB is currently the primary entity considered for feedback.
 - Other feedback can be received by the public on September 4th.
- C. Collins: Is the MOU nonbinding?
 - The Franchise Agreement is an ordinance; the city grants an ordinance to Duke Energy to operate its electric service.
 - The Operating Agreement is a companion document to the Franchise Agreement. It is signed by both parties and is binding for both parties.
 - The MOU is written as an aspirational agreement; there are no deliverables, but the idea is that the parties will work with each other to achieve visions and goals articulated.
- C. Collins: There needs to be a greater level of community engagement. What is the timed term of agreements?
 - The timeline is being discussed and has not been determined.
- C. Collins: There should be stronger stakeholder engagement, and the city should use the [Equitable Community Engagement Blueprint](#). I'd like to see more language on community solar programs as well as more discussion about energy burden, property, and clean energy assessments. The documents should also consider reducing the first cost burden and giving a mechanism for people to pay for energy improvements and on-bill financing.

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- R. Valle Kinloch: The documents need to state the priorities that focus on energy efficiency as well as a stronger link to affordable housing. I'd like for it to address people who need it the most but don't get the benefits from it. It is important to address avoiding harmful and wasteful materials in the documents as well.
 - City Staff Response:
 - Since the Mayor mentioned this in the State of City – we've been working with the city to approach this. In new construction projects for affordable housing, they have to meet one of three Green Building criteria.
 - There are challenges with affordable housing. If we construct affordable housing, then there is not a lot of capital dollars to come in later to install solar panels. There is a gap, and we have been having conversations about it with the Community Development Department. We encourage developers to include these measures in their projects rather than pre-wire it into an agreement.
 - Can the EAB provide some goals and route them to Community Development Department?
- J. Malavade: What are the Green Circuit Initiatives laid out in the documents?
 - Duke Energy: We take a look at congested areas or areas on the grid that could benefit the most from specific holistic work (e.g. battery system to avoid future work to distribution lines, etc). We are taking a neighborhood approach for resources and deploy issues. The Green Circuit Initiatives are in its infancy phase; our Green Team is studying it.
- M. Kopac: The Franchise Agreement needs to be shared with the community before making a statement. This is a very short window of time for discussing elements of the Franchise Agreement and its implications.
- M. Kopac: How many megawatts available?
 - 31.5 Megawatts available remaining to all potential customers.
 - Additional capacity in September 2022.
- M. Kopac: What information is available for specific data or aggregated data?
 - Duke Energy: We can provide some data about residential and neighborhood information, but there is a process for acquiring more data. There are some limitations. Parties would need to get permission from the Utilities Commission for aggregated data for third parties. There is a current document with the Utilities Commission that may allow for the aggregated data.
- M. Koapc: What are the city's options?
 - The city needs to make all three documents together. If the Council does not believe they are ready to approve a new franchise or documents, they can push it until they are ready. We would be operating without a franchise in place; it

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does not mean that we do not have energy services, they would go on as they are now.

- C. Collins: Would we be able to partner with another electrical distribution utility?
 - Probably not by October.
- C. Collins: Referring to the Guiding Principles: Section B – The last sentence needs modification. There may be a time when we lobby the state for another program.
- City Staff: On a legal standpoint, there is not a significant consequence for the deadline to be pushed. There has been a lot of energy put into meeting this timeline. The city and Duke Energy have been working on this for seven months. Feedback from the public hearing should inform council to take action, delay, or defer.

c. Public Comments

- We should take advantage of the flexibility in the start date for Franchise Agreement. Resident is concerned about community engagement and that state and city do not have a 1:1 alignment on goals. Need a document that might identify misalignments and mechanisms of dealing with them. The city could utilize a shorter term agreement.
 - There is room for more discussion on community solar and any outdated language.
- For people in affordable housing and low-income residents, will there be assistance on electrical bills and getting community solar to benefit them?
 - Duke Energy has programs for customers for support in electrical bills provided through social services. They work with other organizations to fund their electrical bill initiatives. Duke Energy has an employee, resident, and customers giving program. Durham County Social Services gets this funding to distribute.
 - The city has developed standards for green buildings including providing solar for affordable housing. It is not language from Duke Energy; the initiative is internal to the city. Community Development is taking the lead with developers on green building standards.
- Are battery storage, emergencies, and disasters addressed in the documents?
 - Resilience is something that the city is taking seriously. The city reserved a grant for the community resilience program. They used the funds for a study about battery storage for emergencies.
 - The county is also working on this on the Triangle Regional Resilience Assessment. It will also be embedded in the Comprehensive Plan.
 - There is specific reference to resilience in MOU attachment.
- How long will the Franchise Agreement run for? We need to be cognizant of the space that is rapidly changing and how long we want to lock ourselves into an agreement.

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Many of the projects are lackluster and flawed. Can we ask Duke Energy to subsidize lower income? There is a real opportunity to set a precedent for the rest of the state.

- The quick turnaround time is a concern, and it feels rushed. How dependent is the Climate Action Energy Plan on this franchise or vice versa?
 - It's not necessary dependent. It can clarify some of the strategies for us to work with Duke Energy. There are areas of overlap.
- Are there any priorities or language for methane? Greenhouse gases? We need Duke Energy to make reductions to greenhouse gases. Can the city purchase power from independent producers? We need more specific language on low-income housing.
 - They can be addressed but are not currently.

d. Timeline

- September 4, 2020: Operating Agreement, Franchise Agreement, MOU shared with public
- September 10, 2020: City Council Work Session
- September 21, 2020: Official Public Hearing before City Council adopts ordinance to Duke Energy

e. EAB Recommendations

- We recommend that the city takes more time for this process, especially for a community engagement plan and transparency in the process.
- There must be language access and the documents should be distributed widely.
- The EAB will have a work session to outline further plans and recommendations.

Addendum:

Public Right of Way: A right of way is a type of easement granted or reserved over the land for transportation purposes, such as a highway, public footpath, rail transport, canal, as well as electrical transmission lines, oil and gas pipelines. [Source: Wikipedia; Right-of-Way]

Binding Contracts and Documents: Binding contracts are legal agreements between two or more parties, which are enforceable by law. Binding contracts aren't always in writing. Sometimes, verbal statements can be legally construed as an offer or contract, even when the party never intended it as such. [Source: UpCounsel]

Community Solar Power: A community solar project is a solar power plant whose electricity is shared by more than one property. ... Project participants benefit from the electricity generated by the community

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solar farm, which costs less than the price they would ordinarily pay to their utility. [Source: Energy Sage]

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